

**REMARKS**

Reconsideration and withdrawal of the rejections set forth in the Office action dated July 29, 2003 are respectfully requested.

I. Amendments

Claim 21 is amended to clarify that the nucleotide sequence recited refers to the nucleic acid.

Claims 24 and 25 are amended to recite nucleotides 1444-3286 of SEQ ID NO:1. Support for nucleotides 1444-3286 is found on page 15, lines 22-23.

Claims 26, 28, and 31 are amended to refer to other claims in the alternative.

By these amendments, no new subject matter has been added.

II. Objections to the Claims

Claims 26, 28, and 31 were objected to under 37 C.F.R. §1.75(c) as allegedly being in improper form. Applicants have amended the claims in accord with the Examiner's kind suggestion.

III. Rejection under 35 U.S.C. §112, first paragraph

Claims 21 and 26-32 were rejected under 35 U.S.C. §112, first paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 24-32 were rejected as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and use the invention without undue experimentation. Specifically, the Examiner objected to the language "A is any one of nucleotides 1440-1444."

These rejections are respectfully traversed.

Written Description

Claim 21 and dependents were rejected for the language "protein comprising the nucleotide sequence" as allegedly confusing and incorrect. Applicants have amended claim 21 in accord with the Examiner's kind suggestion.

Accordingly, claim 21 and its dependents meet the Written Description requirement of 35 U.S.C. §112.

Enablement

Applicants have amended the claims to specifically define "A" as nucleotide 1444 as recited on page 33, lines 25-28, where "A" is defined as any one of nucleotides 1440-1444. Thus, the construct pAG4225 is fixed and defined as nucleotides 1444-3286 of SEQ ID NO:1. Accordingly, the claims as amended recite an isolated nucleic acid encoding a protein with the activity of a constitutive triple response (CTR) protein comprising nucleotides 1444-3286 of SEQ ID NO: 1 or an isolated nucleic acid that specifically hybridizes under highly stringent conditions to the complement of nucleotides 1444-3286 of SEQ ID NO: 1, wherein the nucleic acid encodes a protein with the activity of a constitutive triple response (CTR) protein.

Accordingly, claims 24-32 meet the Enablement requirement of 35 U.S.C. §112.

In view of the foregoing, Applicants submit that the amended claims and specification comply with the requirements of 35 U.S.C. §112, first paragraph. Withdrawal of the rejections under 35 U.S.C. § 112, first paragraph is respectfully requested.

**CONCLUSION**

In view of the foregoing, Applicants submit that the claims pending in the application are in condition for Allowance. A Notice of Allowance is therefore respectfully requested.

The Examiner is invited to contact Applicants' representative at (650) 838-4410 if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,



Jacqueline F. Mahoney  
Registration No. 48,390

Date: Sept 4 3-7 2003

**Correspondence Address:**

Customer No. 22918  
(650) 838-4300